

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ORDER

This closed criminal matter is before the Court on defendant Lonnie Dwayne Payne's letter dated March 19, 2006, requesting sentencing transcripts of September 25, 2005 and April 21, 2005 at government expense.

There is no basis for the Court to order that transcripts be provided to defendant as part of a closed criminal case, and the motion will therefore be denied without prejudice. The Court notes that defendant has filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. See Payne v. United States, 4:06-CV-673 CAS (E.D. Mo.). Defendant may seek a copy of the transcripts at government expense by filing a motion in his action under 28 U.S.C. § 2255, if desired.

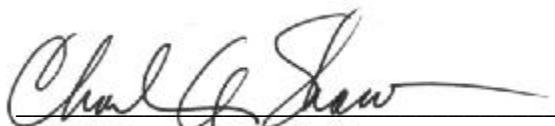
Fees for transcripts furnished in proceedings brought pursuant to 28 U. S. C. § 2255 by persons allowed to proceed in forma pauperis are “paid by the United States out of moneys appropriated for those purposes.” 28 U.S.C. § 753(f). In a proceeding brought pursuant to 28 U.S.C. § 2255, the fee shall be paid by the United States upon certification by the trial judge that the

suit "is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal." 28 U.S.C. § 753(f).

If defendant chooses to file a motion for transcripts in his Section 2255 proceeding, he shall specify which claim or claims in the Section 2255 motion that each requested transcript relates to, and why the transcripts are necessary to decide the issues presented by that claim or claims, so the Court can determine whether transcripts should be provided pursuant to 28 U.S.C. § 753(f). Defendant shall also include a certificate of service on any motion for transcripts filed in the Section 2255 action, and shall send a copy of the motion to the government's attorney of record.

Accordingly,

IT IS HEREBY ORDERED that defendant's letter dated March 19, 2006, construed as a motion for transcripts at government expense, is **DENIED** without prejudice. [Doc. 540]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 20th day of October, 2006.